

STATE OF CALIFORNIA  
WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20445

Application 29300 of Malacha Hydro Limited Partnership,

P.O. Box 6640, Boise, ID 83707

filed on July 13, 1988, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Pit River

Sacramento River

2. Location of point of diversion:

40-acre subdivision  
of public land survey  
or projection thereof

Section

Town-  
ship

Range

Base  
and  
Meridian

DIVERSION TO OFFSTREAM STORAGE  
NORTH 2,470 FEET AND EAST 2,080 FEET FROM SW CORNER OF  
SECTION 27

NE $\frac{1}{4}$  OF SW $\frac{1}{4}$

27

37N

7E

MD

OFFSTREAM STORAGE  
COLLETT RESERVOIR

SE $\frac{1}{4}$  OF NE $\frac{1}{4}$

12

36N

6E

MD

County of Lassen

3. Purpose of use:

4. Place of use:

Section

Town-  
ship

Range

Base  
and  
Meridian

Acre

POWER

MUCK VALLEY POWER PLANT WITHIN  
SW $\frac{1}{4}$  OF NW $\frac{1}{4}$

11

36N

6E

MD

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 19,500 acre-feet per annum to be collected from October 1 of each year to May 31 of the succeeding year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (0000005I)

The maximum rate of diversion to offstream storage shall not exceed 1,100 cubic feet per second. (0000005J)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (00000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (00000007)

8. Construction work shall be completed by December 31, 1993. (00000008)

9. Complete application of the water to the authorized use shall be made by December 31, 2000. (00000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (00000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (00000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (00000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. This permit shall not be construed as conferring upon permittee right of access to the point of diversion. (0000022)

15. Permittee shall comply with the following provisions which are derived from the agreement between permittee and Pacific Gas and Electric Company executed on December 1, 1989 and filed with the State Water Resources Control Board:

- (1) This permit is specifically subject to any legally held prior rights of Pacific Gas and Electric Company and to Pacific Gas and Electric Company's prior rights under appropriations issued pursuant to Application 1891 (License 600), Application 1892 (License 5963), Application 14743 (License 9189), Application 14928 (License 5964), and Application 15407 (License 9190). (000T001)
- (2) Permittee shall divert water to storage under this permit only when the flow in the Pit River, as measured at a point upstream from permittee's point of diversion, exceeds 1,200 cubic feet per second. Permittee's diversion to offstream storage shall be limited to only that portion of the flow in the Pit River in excess of said 1,200 cubic feet per second. (0360300)
- (3) Permittee shall install and maintain devices satisfactory to the State Water Resources Control Board to measure flows in the Pit River and to measure the rate and quantity of water diverted to the reservoir from the Pit River. Permittee shall record daily measurements, and shall supply such measurements to Pacific Gas and Electric Company monthly. (0050300)

Inclusion in this permit of certain provisions of the referenced agreement shall not be construed as disapproval of other provisions of the agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit. (0000024)

16. If the storage dam will be of such size as to be within the jurisdiction of the Department of Water Resources as to safety, construction under this permit shall not be commenced until the Department has approved the plans and specifications for the dam. (0360048)

17. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes. (0120050)

18. This permit is subject to the terms and conditions contained in the Clean Water Act Section 401 Water Quality Certification issued for the Collett Reservoir Addition by the Executive Director of the State Water Resources Control Board on April 6, 1990. Specific terms for the construction and operation of the Collett Reservoir addition to the Muck Valley Hydro Project from said certification are as follows:

- (1) Whenever water is being released from Collett Reservoir, discharge to the Pit River below the powerhouse shall not increase the downstream flow in the Pit River greater than 140 cubic feet per second from 10:00 a.m. on Monday through 4:00 p.m. on Friday, or 70 cubic feet per second from 4:00 p.m. on Friday through 10:00 a.m. on Monday, above what would have existed in the river absent any diversion under permitted Application 28465. (0400500)

- (2) Permittee shall not draw down Collett Reservoir below a minimum pool of 100 acre-feet, subject to subsequent losses resulting from seepage and evaporation. (0400500)
- (3) Permittee shall develop a plan which provides for the continuous monitoring and recording of water temperature, turbidity, and dissolved oxygen of the receiving waters of the Pit River and the discharge waters from the existing tailrace or the reregulating afterbay whenever water is being released from Collett Reservoir for power generation (the monitoring locations shall be identified in the plan). The plan must be submitted to and approved by the Chief of the Division of Water Rights prior to the use of any water from Collett Reservoir for power generation. Discharge waters from the existing tailrace or the reregulating afterbay shall not cause the water quality objectives for the receiving waters of the Pit River to be exceeded. (0490500)
- (4) Prior to October 15 of each year, permittee shall provide permanent or temporary (if the project is incomplete) stabilization of all disturbed or eroding areas through commencement of revegetation or completion of mechanical stabilization measures. Revegetation shall consist of seeding, planting, mulching, and initial fertilization as needed, and initial watering as needed. The vegetative species used in the revegetation shall be approved by the California Department of Fish and Game and the State Water Resources Control Board in consultation with the United States Bureau of Land Management and the United States Fish and Wildlife Service. (0400500)
19. Permittee shall implement the Wildlife Habitat Mitigation Plan prepared in consultation with the California Department of Fish and Game, United States Fish and Wildlife Service, and the State Water Resources Control Board as contained in the final Environmental Impact Report. (0400500)
20. Permittee shall implement the Wildlife Mitigation Monitoring Plan as contained in the final Environmental Impact Report. (0400500)
21. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the Board concerning availability of water and the protection of beneficial uses of water in the Sacramento-San Joaquin Delta and San Francisco Bay. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing. (0000080)
22. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento River Basin are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing. (0000090)
23. No diversion is authorized by this permit when satisfaction of inbasin entitlements requires release of supplemental Project water by the Central Valley Project or the State Water Project.
- a. Inbasin entitlements are defined as all rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the State Water Resources Control Board for maintenance of water quality and fish and wildlife. Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlements.
- b. Supplemental Project water is defined as that water imported to the basin by the projects plus water released from Project storage which is in excess of export diversions, Project carriage water, and Project inbasin deliveries.

The State Water Resources Control Board shall notify permittee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The Board will advise permittee of the probability of imminent curtailment of diversion as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Project operators.

(0000091)

24. All rights and privileges to appropriate water for power purposes under this permit and any subsequently issued license are subject to depletions resulting from future upstream appropriation for domestic and stockwatering uses within the watershed. Such rights and privileges under this permit may also be subject to future upstream appropriations for uses within the watershed other than domestic and stockwatering if and to the extent that the Board determines, pursuant to Water Code Sections 100 and 275, that the continued exercise of the appropriation for power purposes is unreasonable in light of such proposed uses. Any such determination shall be made only after notice to permittee or licensee of an application for any such future upstream appropriation and the opportunity to be heard; provided, that a hearing, if requested, may be consolidated with the hearing on such applications.

(000I001)

25. No construction shall be commenced and no water shall be used under this permit until all necessary federal, state and local approvals have been obtained, including compliance with any applicable Federal Energy Regulatory Commission requirements.

(000J001)

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

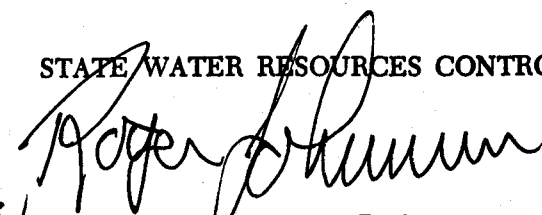
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: **MAY 17 1990**

STATE WATER RESOURCES CONTROL BOARD

  
Chief, Division of Water Rights

10/7/98 Asgd. to Malacha Hydro limited Partership;